IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

MONDAY, THE 10TH SEPTEMBER 2007 / 19TH BHADRA 1929

Crl.MC.No. 4777 of 2003()

ST.557/2001 of JUDL. MAGISTRATE OF FIRST CLASS COURT-II,NEYYATTINKARA

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PETITIONERS: ACCUSED

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1. P.C.THOMAS, PARTNER,
   M/S.P.C.THOMAS AND COMPANY, PUTHUSSERI HOUSE,
   MAMANGALAM, KOCHI-25

2. PAUL THOMAS, PARTNER,
   M/S. P.C.THOMAS AND COMPANY, PUTHUSSERIL HOUSE,
   MAMANGALAM, KOCHI-25

BY ADV. SRI.K.C.PETER

RESPONDENT: COMPLAINANT

STATE OF KERALA, REPRESENTED BY THE
LABOUR ENFORCEMENT OFFICER (C), T.C.25/3534,
UPPALAM ROAD, THIRUVANANTHAPURAM.

BY PUBLIC PROSECUTOR SRI.C.K.SURESH

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 10/09/2007, ALONG WITH CRMC NOS. 4903/2003, 4899/2003, 4905/2003, 4907/2003, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.R.UDAYABHANU, J

Crl.M.C.Nos.4777/2003, 4903/2003,
4899/2003, 4905/2003 & 4907/2003

Dated this the 10th day of September, 2007

O R D E R

The petitioners 1 and 2 are the Managing Partner and Partner respectively of the firm that stands charge sheeted for the various offences under the Contract Labour (Regulation and Abolition) Act, 1970. The petitioners have sought for getting quashed the proceedings initiated in S.T.Nos.557/2003, 930/2000, 393/2000, 396/2000 and 931/2000 in the court of JFCM, Neyyattinkara. It is the contention that the firm consists of 4 partners and partners have executed power of attorney in the name of one Varghese Esso vide Annexure A and hence they are not liable to be implicated.

2. I find that the petitioners have not produced anything to show that any intimation with respect to Annexure A power of attorney has been furnished with the Labour Enforcement (central). Moreover, genuineness of Annexure A power of attorney is a matter to be considered. First petitioner is the Managing partner. Unless Annexure A power of attorney is strictly

proved A1/first petitioner would not be able to avoid liability. All the same, A2/second petitioner would be liable only if he is found to be in charge of and responsible to the company for the conduct of the business at the time of initiation of the proceedings. There is no material in this regard produced. Hence, the offence charged against A2/second petitioner is set aside. A1/first petitioner is permitted to raise his contentions before the court below. Hence, the proceedings initiated against A2/second petitioner in the above case is herewith quashed. The proceedings against A1/first petitioner can be continued.

K.R.UDAYABHANU,
JUDGE

csl